

TITLE 32.—NATIONAL GUARD

Chap.	Sec.
1. Composition, Organization, and Control Generally	1
2. Funds for Support of National Guard	21
3. Armament, Equipment, and Supplies	31
4. Instruction, Training, and Discipline	61
5. Call or Draft into Federal Service	81
6. Courts-Martial	91
7. Commissioned Officers	111
8. Enlisted Force	121
9. Inactive National Guard	131
10. Pay and Allowances	141
11. National Guard Bureau	171
12. Rifle Instruction and Practice for Civilians ..	181
13. Miscellaneous Provisions	191

Chapter 1.—COMPOSITION, ORGANIZATION, AND CONTROL GENERALLY

Sec.
1. Composition and classes of militia.
2. Militia exclusively a land force.
3. Exemptions from militia duty.
4. National Guard of the States, Territories, and District of Columbia; composition.
4a. Repealed.
4b. National Guard defined.
4c. Territory defined.
5. Organization of tactical units.
6. Location of units and headquarters.
7. Location and designation of units comprised entirely within State or Territory.
8. Assignment of National Guard to divisions, brigades, etc.; commanding officers.
9. Authorized officers and men of staff corps and departments.
10. Chiefs of staff of divisions.
11. Adjutant general for each State, Territory, and District of Columbia.
12. Appointment of adjutant generals for Territories and District of Columbia.
13. Annual reports by adjutant generals of States, etc.
14. Annual report of Secretary of War to contain abstract of reports of adjutant generals.
15. Inspections of National Guard.
16. Disbanding or reduction of strength.
17. Rules and regulations.
18—20. Repealed.

§ 1. Composition and classes of militia.

The militia of the United States shall consist of all able-bodied male citizens of the United States and all other able-bodied males who have or shall have declared their intention to become citizens of the United States, who shall be more than seventeen years of age and, except as hereinafter provided, not more than forty-five years of age, and said militia shall be divided into three classes, the National Guard, the Naval Militia, and the Unorganized Militia. (June 3, 1916, ch. 134, § 57, 39 Stat. 197; June 28, 1947, ch. 162, § 7, 61 Stat. 192.)

CODIFICATION

The War Department, commenting on this section, says: "Under the Act of Feb. 16, 1914 (38 Stat. 283) the Naval Militia constituted part of the 'Organized Militia.' The above section abandoned the term 'Organized

Militia,' and the Naval Militia was by this section, and by section 117 of the Act of June 3, 1916 (39 Stat. 212) [32 U. S. C. § 2], recognized as constituting part of the 'militia.' The Act of June 14, 1917 (40 Stat. 181) recognized the possible existence during the World War of militia organizations not a part of the National Guard or of the Naval Militia. All laws relating to the Naval Militia were repealed by the Act of July 1, 1918 (40 Stat. 708) but by the Act of July 11, 1919 (41 Stat. 141) the Naval Militia was recognized as still in existence, and by the Acts of July 1, 1922 (42 Stat. 793) and May 28, 1924 (43 Stat. 188) a part of the 'Organized Militia' was to constitute temporarily a Naval Militia. Except for a reference immaterial here, all Acts and parts of Acts relating to the Naval Militia were repealed by section 3, Act of Feb. 28, 1925 (43 Stat. 1080), but section 28 of the same Act (43 Stat. 1088; 34 U. S. C. 841) prescribed that part of the 'Organized Militia' should constitute a Naval Militia."

AMENDMENTS

1947—Act June 28, 1947, amended section by lowering enlistment age from eighteen to seventeen years.

REPEALS

For repeal of laws inconsistent with act June 28, 1947, see note under section 628 of Title 10, Army and Air Force.

§ 2. Militia exclusively a land force.

The provisions of this title in respect to the militia shall be applicable only to militia organized as a land force. (May 27, 1908, ch. 204, § 1, 35 Stat. 399; June 3, 1916, ch. 134, § 117, 39 Stat. 212; Feb. 28, 1925, ch. 374, § 3, 43 Stat. 1081.)

REFERENCES IN TEXT

In original "title" read "Act" meaning the National Defense Act of 1916, act June 3, 1916, ch. 134, 39 Stat. 166. This act is incorporated in this title as sections 1—4, 4b, 4c, 5—8, 10, 12, 13, 15—17, 24, 25, 31, 33, 35, 39, 40, 42, 45—47, 49, 61—70, 72, 75, 82, 83, 91—97, 111—113a, 114, 115, 121, 123—125, 131—134, 144—148, 154, 156, 158, 160, 171—176, 183, 186, 192, and 194. For distribution of National Defense Act of 1916 into other titles of this Code see the tables.

§ 3. Exemptions from militia duty.

The Vice President of the United States; the officers, judicial and executive, of the Government of the United States and of the several States and Territories; persons in the military or naval service of the United States; customhouse clerks; persons employed by the United States in the transmission of the mail; artificers and workmen employed in the armories, arsenals, and navy yards of the United States; pilots; mariners actually employed in the sea service of any citizen or merchant within the United States, shall be exempt from militia duty without regard to age, and all persons who because of religious belief shall claim exemption from military service, if the conscientious holding of such belief by such person shall be established under such regulations as the President shall prescribe, shall be exempted from militia service in a combatant capacity; but no person so exempted shall be exempt from

militia service in any capacity that the President shall declare to be noncombatant. (June 3, 1916, ch. 134, § 59, 39 Stat. 197.)

CROSS REFERENCES

Exemption from militia duty in Alaska Militia, see section 474 of Title 48, Territories and Insular Possessions.

Exemptions and deferments under Universal Military Training and Service Act of 1948, see section 456 of Appendix to Title 50, War and National Defense.

§ 4. National Guard of the States, Territories, and District of Columbia; composition.

The National Guard of each State, Territory, and the District of Columbia shall consist of members of the militia voluntarily enlisted therein, who upon original enlistment shall be not less than seventeen nor more than forty-five years of age, or who in subsequent enlistment shall be not more than sixty-four years of age, organized, armed, equipped, and federally recognized as hereinafter provided, and of commissioned officers and warrant officers who are citizens of the United States between the ages of eighteen and sixty-four years: *Provided*, That former members of the Regular Army, Navy, or Marine Corps under sixty-four years of age may enlist in said National Guard. (June 3, 1916, ch. 134, § 58, 39 Stat. 197; Feb. 28, 1925, ch. 371, § 1, 43 Stat. 1075; June 15, 1933, ch. 87, § 5, 48 Stat. 155; June 28, 1947, ch. 162, § 7, 61 Stat. 192; July 9, 1952, ch. 608, pt. VIII, § 806 (j), 66 Stat. 508.)

AMENDMENTS

1952—Act July 9, 1952, amended section by substituting "eighteen" in lieu of "twenty-one" immediately preceding "and sixty-four years".

1947—Act June 28, 1947, amended section by lowering enlistment age from eighteen to seventeen years.

EFFECTIVE DATE OF 1952 AMENDMENT

Amendment of section as effective on the first day of the sixth month after July 1952, see note set out under section 901 of Title 50, War and National Defense.

REPEALS

For repeal of laws inconsistent with act June 28, 1947, see note under section 628 of Title 10, Army and Air Force.

CROSS REFERENCES

Organization and composition of Alaska Militia, see sections 473 and 475 of Title 48, Territories and Insular Possessions.

§ 4a. Repealed. July 9, 1952, ch. 608, pt. VIII, § 803, 66 Stat. 505.

Section, act June 3, 1916, ch. 134, § 58, as added June 15, 1933, ch. 87, § 5, 48 Stat. 155, and amended June 19, 1935, ch. 277, § 2, 49 Stat. 391, related to the establishment and composition of the National Guard of the United States, and is now covered by chapter 25 of Title 50, War and National Defense.

EFFECTIVE DATE OF REPEAL

Repeal of section as effective on the first day of the sixth month following July 1952, see note set out under section 901 of Title 50, War and National Defense.

§ 4b. National Guard defined.

In this title, unless the context or subject matter otherwise requires—

(a) "National Guard" or "National Guard of the several States, Territories, and the District of Columbia" means that portion of the Organized Militia of the several States, Territories, and the District of

Columbia, active and inactive, federally recognized as provided in this title and organized, armed, and equipped in whole or in part at Federal expense and officered and trained under paragraph 16, section 8, article I of the Constitution.

(b) Repealed. July 9, 1952, ch. 608, Pt. VIII, § 803, 66 Stat. 505.

(June 3, 1916, ch. 134, § 71, as added June 15, 1933, ch. 87, § 9, 48 Stat. 157, and amended Oct. 12, 1949, ch. 681, title V, § 530 (a), 63 Stat. 837; July 9, 1952, ch. 608, pt. VIII, § 803, 66 Stat. 505.)

REFERENCES IN TEXT

In original "title" read "Act" meaning the National Defense Act of 1916, act June 3, 1916, ch. 134, 39 Stat. 166. For distribution of this act into this title see note under section 2 of this title.

AMENDMENTS

1952—Subsec. (b) repealed by act July 9, 1952.

1949—Subsec. (b) amended by act Oct. 12, 1949, which added all text beginning "and, in addition there is."

EFFECTIVE DATE OF 1952 AMENDMENT

Amendment of section as effective on the first day of the sixth month after July 1952, see note set out under section 901 of Title 50, War and National Defense.

CROSS REFERENCES

Air National Guard of the United States, and Air National Guard, as components of Air Force, see sections 1834 and 1835 of Title 10, Army and Air Force.

Definition of National Guard of the United States, see section 1112 of Title 50, War and National Defense.

National Guard as a reserve component of the Army, see section 1111 of Title 50, War and National Defense.

§ 4c. Territory defined.

The word Territory as used in this title and in all laws relating to the land militia and National Guard shall include and apply to Hawaii, Alaska, Puerto Rico, and the Canal Zone, and the militia of the Canal Zone shall be organized under such rules and regulations, not in conflict with the provisions of this title, as the President may prescribe. (June 3, 1916, ch. 134, § 62, 39 Stat. 198; May 17, 1932, ch. 190, 47 Stat. 158.)

REFERENCES IN TEXT

In original "title" read "Act" meaning the National Defense Act of 1916, act June 3, 1916, ch. 134, 39 Stat. 166. For distribution of this act into this title see note under section 2 of this title.

CROSS REFERENCES

Organization and composition of Alaska Militia, see sections 473 and 475 of Title 48, Territories and Insular Possessions.

§ 5. Organization of tactical units.

Except as otherwise specifically provided herein, the organization of the National Guard, including the composition of all units thereof, shall be the same as that which is or may hereafter be prescribed for the Regular Army, subject in time of peace to such general exceptions as may be authorized by the Secretary of the Army. And the President may prescribe the particular unit or units, as to branch or arm of service, to be maintained in each State, Territory, or the District of Columbia in order to secure a force which, when combined, shall form complete higher tactical units: *Provided*, That no change in allotment, branch, or arm of units or organizations

wholly within a single State will be made without the approval of the governor of the State concerned. (June 3, 1916, ch. 134, § 60, 39 Stat. 197; June 4, 1920, ch. 227, subch. I, § 36, 41 Stat. 780; June 15, 1933, ch. 87, § 6, 48 Stat. 156; July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.)

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947.

CROSS REFERENCES

Policies and regulations for government of National Guard, see section 38 of Title 10, Army and Air Force.

§ 6. Location of units and headquarters.

The States and Territories shall have the right to determine and fix the location of the units and headquarters of the National Guard within their respective borders. (June 3, 1916, ch. 134, § 68, 39 Stat. 200.)

§ 7. Location and designation of units comprised entirely within State or Territory.

Subject to general regulations approved by the Secretary of the Army, the location and designation of units of the National Guard entirely comprised within the limits of any State or Territory shall be determined by a board, a majority of whom shall be reserve officers, including reserve officers who hold or have held commissions in the National Guard and recommended for this duty by the governor of the State or Territory concerned. (June 3, 1916, ch. 134, § 3a, as added June 4, 1920, ch. 227, subch. I, § 3, 41 Stat. 760, and amended July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.)

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947.

CROSS REFERENCES

Plans for initial organization and territorial distribution of the National Guard, see section 37 of Title 10, Army and Air Force.

§ 8. Assignment of National Guard to divisions, brigades, etc.; commanding officers.

For the purpose of maintaining appropriate organization and to assist in instruction and training, the President may assign the National Guard of the several States and Territories and the District of Columbia to divisions, brigades, and other tactical units, and may detail officers either from the National Guard or the Regular Army to command such units: *Provided*, That where complete units are organized within a State, Territory, or the District of Columbia the commanding officers thereof shall not be displaced under the provisions of this section. (June 3, 1916, ch. 134, § 64, 39 Stat. 198.)

§ 9. Authorized officers and men of staff corps and departments.

The National Guard of any State, Territory, or the District of Columbia shall include such officers and enlisted men of the staff corps and departments, corresponding to those of the Regular Army, as may be authorized by the Secretary of the Army. (July

9, 1918, ch. 143, 40 Stat. 875; July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.)

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947.

CROSS REFERENCES

Appointment of National Guard officers as Reserve officers upon Federal recognition, see section 1113 of Title 50, War and National Defense.

§ 10. Chiefs of staff of divisions.

The President may detail one officer of the Regular Army as chief of staff and one officer of the Regular Army or the National Guard as assistant to the chief of staff of any division of the National Guard in the service of the United States as a National Guard organization: *Provided*, That, in order to insure the prompt mobilization of the National Guard in time of war or other emergency, the President may, in time of peace, detail an officer of the Regular Army to perform the duties of chief of staff for each fully organized tactical division of the National Guard. (June 3, 1916, ch. 134, § 65, 39 Stat. 199.)

CROSS REFERENCES

Air Staff and Chief of Staff of the Air Force, generally, see sections 1811—1815 of Title 10, Army and Air Force. Army Staff and Chief of Staff of the Army, generally, see chapter 2 of Title 10, Army and Air Force.

§ 11. Adjutant general for each State, Territory, and District of Columbia.

There shall be appointed in each State, Territory, and the District of Columbia an adjutant general, who shall perform such duties as may be prescribed by the laws of such State, Territory, and District, respectively. (Jan. 21, 1903, ch. 196, § 12, 32 Stat. 776.)

CROSS REFERENCES

Appointment of Adjutant General of Alaska National Guard, see section 477 of Title 48, Territories and Insular Possessions.

§ 12. Appointment of adjutant generals for Territories and District of Columbia.

The adjutant generals of the Territories and of the District of Columbia shall be appointed by the President, with such rank and qualifications as he may prescribe, and each adjutant general for a Territory shall be a citizen of the Territory for which he is appointed. (June 3, 1916, ch. 134, § 66, 39 Stat. 199.)

CROSS REFERENCES

Qualifications of Adjutant General of Alaska National Guard, see section 477 of Title 48, Territories and Insular Possessions.

§ 13. Annual reports by adjutant generals of States, etc.

The adjutant generals of the States, Territories, and the District of Columbia, and the officers of the National Guard, shall make such returns and reports to the Secretary of the Army, or to such officers as he may designate, at such times and in such form as the Secretary of the Army may from time to time prescribe. (June 3, 1916, ch. 134, § 66, 39 Stat. 199; July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.)

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947.

CROSS REFERENCES

Duties of Adjutant General of Alaska National Guard, see section 477 of Title 48, Territories and Insular Possessions.

§ 14. Annual report of Secretary of the Army to contain abstract of reports of adjutant generals.

The Secretary of the Army shall, with his annual report of each year, transmit to Congress an abstract of the returns and reports of the adjutant generals of the States, Territories, and the District of Columbia, with such observations thereon as he may deem necessary for the information of Congress. (Jan. 21, 1903, ch. 196, § 12, 32 Stat. 776; July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.)

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947.

§ 15. Inspections of National Guard.

The Secretary of the Army shall cause an inspection to be made at least once each year by inspector generals, and if necessary by other officers, of the Regular Army, detailed by him for that purpose, to determine whether the amount and condition of the property in the hands of the National Guard is satisfactory; whether the National Guard is organized as hereinbefore prescribed; whether the officers and enlisted men possess the physical and other qualifications prescribed; whether the organization and the officers and enlisted men thereof are sufficiently armed, uniformed, equipped, and being trained and instructed for active duty in the field or coast defense, and whether the records are being kept in accordance with the requirements of this title. The reports of such inspections shall serve as the basis for deciding as to the issue to and retention by the National Guard of the military property provided for by this title, and for determining what organizations and individuals shall be considered as constituting parts of the National Guard within the meaning of this title. (June 3, 1916, ch. 134, § 93, 39 Stat. 206; July 26, 1947, ch. 343, title II, § 205 (a), 61 Stat. 501.)

REFERENCES IN TEXT

In original "title" read "Act" meaning the National Defense Act of 1916, act June 3, 1916, ch. 134, 39 Stat. 166. For distribution of this act into this title see note under section 2 of this title.

CHANGE OF NAME

The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by act July 26, 1947.

§ 16. Disbanding or reduction of strength.

No organization of the National Guard, members of which shall be entitled to and shall have received compensation under the provisions of this title, shall be disbanded without the consent of the President, nor, without such consent, shall the commissioned or enlisted strength of any such organization be re-

duced below the minimum that shall be prescribed therefor by the President. (June 3, 1916, ch. 134, § 68, 39 Stat. 200.)

REFERENCES IN TEXT

In original "title" read "Act" meaning the National Defense Act of 1916, act June 3, 1916, ch. 134, 39 Stat. 166. For distribution of this act into this title see note under section 2 of this title.

§ 17. Rules and regulations.

The President shall make all necessary rules and regulations and issue such orders as may be necessary for the thorough organization, discipline, and government of the militia provided for in this title. (June 3, 1916, ch. 134, § 118, 39 Stat. 213.)

REFERENCES IN TEXT

In original "title" read "Act" meaning the National Defense Act of 1916, act June 3, 1916, ch. 134, 39 Stat. 166. For distribution of this act into this title see note under section 2 of this title.

§§ 18—20. Repealed. July 9, 1952, ch. 608, pt. VIII, § 803, 66 Stat. 505.

Section 18, acts June 3, 1916, ch. 134, § 38, 39 Stat. 190; June 15, 1933, ch. 87, § 4, 48 Stat. 155, related to appointment of officers in National Guard, and is now covered by chapter 25 of Title 50, War and National Defense.

Section 18a, acts, June 3, 1916, ch. 134, § 38, 39 Stat. 190; June 6, 1924, ch. 275, § 3, 43 Stat. 47; June 15, 1933, ch. 87, § 4, 48 Stat. 155, related to former commission, and is now covered by chapter 25 of said Title 50.

Section 19, acts June 3, 1916, ch. 134, § 38, 39 Stat. 190; June 15, 1933, ch. 87, § 4, 48 Stat. 155, related to period of service by officer in National Guard of United States commissioned as Reserve officer, and is now covered by chapter 25, of said Title 50.

Section 20, acts June 3, 1916, ch. 134, § 38, 39 Stat. 190; June 15, 1933, ch. 87, § 4, 48 Stat. 155, related to officers in the National Guard of United States as government officers or employees, and is now covered by chapter 25 of said Title 50.

EFFECTIVE DATE OF REPEAL

Repeal of sections as effective on the first day of the sixth month following July 1952, see note set out under section 901 of Title 50, War and National Defense.

EXTENSION OF APPOINTMENTS

Ex. Ord. No. 10397, Sept. 25, 1952, 17 F. R. 8605 extended appointments of all officers and warrant officers under former section 19 of this title until and including April 1, 1953.

CONTINUATION OF APPOINTMENTS UNTIL APRIL 1, 1953

Section 1 (c) (1) of Joint Res. July 3, 1952, ch. 570, 66 Stat. 333, provided that the President is authorized to continue in effect until and including Apr. 1, 1953, all appointments as officers and warrant officers of the Army and Air Force which under former section 19 of this title would have terminated after Apr. 27, 1952 and before Apr. 1, 1953.

REPEAL OF PRIOR ACTS CONTINUING SECTION

Section 6 of Joint Res. July 3, 1952, repealed Joint Res. Apr. 14, 1952, ch. 204, 66 Stat. 54 as amended by Joint Res. May 28, 1952, ch. 339, 66 Stat. 96; Joint Res. June 14, 1952, ch. 437, 66 Stat. 137; Joint Res. June 30, 1952, ch. 526, 66 Stat. 296, which continued provisions of former section 19 of this title until July 3, 1952. This repeal shall take effect as of June 16, 1952, by section 7 of said Joint Res. July 3, 1952.

Chapter 2.—FUNDS FOR SUPPORT OF NATIONAL GUARD

Sec.

- 21. Annual appropriation.
- 22. Apportionment and disbursement of appropriation.
- 23. Repealed.